CITY OF SAN JOSÉ, CALIFORNIA

SAN JOSE INTERNATIONAL AIRPORT
1661 AIRPORT BOULEVARD C-205
SAN JOSE, CALIFORNIA 95110-1285

July 26, 1994

Ralph G. Tonseth
Director of Aviation

Mr. William Caton
Acting Secretary Federal Communications Commission
1919 M Street NW, Room 222
Washington, DC 20554

RE: Billed Party Preference Docket No. 92-77

Dear Mr. Caton:

Thank you for providing us with the opportunity to comment on the Notice of Proposed Rulemaking regarding Billed Party Preference (BPP).

San Jose International Airport, a city owned airport, continually strives to provide quality service to its customers, the traveling public and citizens of San Jose.

An important part of our mission is to remain a self-supporting entity without the need to tax the public at large. It appears that implementation of BPP may adversely affect Airport revenues, which in turn would necessitate raising fees to other users.

At the same time, it is not clear to us that the expense involved in implementing BPP, justifies the impact that it may have on our customers, who, for example, may lose the ability to place credit card calls, or upon pay telephone providers, who may lose the incentive to provide long distance telephone service at airports throughout the country, and thereby cause great inconvenience to our users.

Please consider, the foregoing before proceeding with the implementation of BPP. Your attention to this matter is most appreciated.

Sincerely,

Terri A. Gomes
Deputy Director
Airport Finance & Administration

TAG:RS:sr
prop/letters/bbp.doc

c: Ralph G. Tonseth

No. of Copies rec'd 0+6
List ABCDE

 FCC 94-117

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 92-77
Billed Party Preference	)	
for 0+ InterLATA Calls	)	

FURTHER NOTICE OF PROPOSED RULEMAKING

Adopted: May 19, 1994 Released: June 6, 1994

Comment Date: July 8, 1994
Reply Date: July 29, 1994

By the Commission: Commissioner Quello concurring and issuing a statement; Commissioner Barrett issuing a statement.

TABLE OF CONTENTS

I. INTRODUCTION

1. In May 1992, the Commission released a Notice of Proposed Rulemaking to consider the implementation of a "billed party preference" (BPP) system for 0+ interLATA payphone traffic and for other types of operator-assisted interLATA traffic.[1] Under BPP, such traffic would be carried automatically by the operator services provider (OSP) preselected by the party being billed for the call. In the Notice, we tentatively concluded that, in concept, BPP routing of all 0+ interLATA calls is in the public interest, and we sought comment on the costs and benefits of BPP.

2. Our review of the evidence in the record and other publicly available data indicates that BPP, if implemented within the parameters discussed below, would serve the public interest. BPP would facilitate access to the telephone network by eliminating the need for callers to use access codes on operator service calls. BPP would also stimulate competition in operator services both by eliminating AT&T's advantages in the operator services market and by refocusing operator services competition more squarely on consumers. Heightened, more consumer-oriented competition should result in lower prices and better services, which, coupled with easier access, should stimulate network usage. Moreover, the technology required for BPP would enrich the nation's telecommunications infrastructure, paving the way for further network innovation. Nevertheless, BPP is an expensive technology. In addition, the data, including the cost data, on which we rely is not as precise or as current as we would like. Therefore, before issuing a final decision, we invite parties to comment on our analysis of the benefits and costs of BPP. We will mandate BPP only if we conclude that, as indicated by the current record, its benefits outweight its costs and that these benefits cannot be achieved through alternative, less costly measures. Parties suggesting alternatives to BPP should describe those alternatives with specificity so that we may adequately assess their costs, benefits, and feasibility in relation to BPP. We intend to proceed expeditiously with our review of the record and issue a final decision at the earliest possible date.

II. BACKGROUND

3. 0+ interLATA calls from payphones, hotels, motels, and other aggregator locations are routed today to the OSP chosen by the premises or payphone owner.[2] OSPs generally

---

[1] Billed Party Preference for 0+ InterLATA Calls, Notice of Proposed Rulemaking, CC Docket No. 92-77, 7 FCC Rcd 3027 (1992) (Notice). A 0+ call occurs when the caller keys in "0" plus an interexchange number, without first using a carrier access code. An access code is a sequence of numbers, e.g., 10288, that connect the caller to the carrier associated with that sequence.

[2] Prior to 1988, all 0+ traffic from Bell Operating Company (BOC) and GTE payphones was routed to AT&T. In October 1988, Judge Greene ordered the BOCs to implement a presubscription system for BOC payphones, and shortly thereafter, he ordered GTE to do the

compete to receive such traffic by offering commissions to payphone or premises owners on all 0+ calls from a public phone "presubscribed" to them.[3] To maximize commission revenues, and in some cases to prevent fraud, some aggregators blocked the use of access codes for "dialing around" the 0+ carrier from their phones. Congress responded to this by enacting the Telephone Operator Consumer Services Improvement Act of 1990 (TOCSIA), pursuant to which the Commission has required payphone providers to permit callers to use access codes to reach their preferred carriers.[4]

4. While the Commission's orders pursuant to TOCSIA have addressed some of the most serious problems presented by a presubscription system of equal access for public phones,[5] we

---

same. In these orders, Judge Greene stated that a BPP system would be most consistent with the divestiture decree, but he recognized that it was not viable at the time. Still, he stated his expectation that the BOCs would continue expeditiously to perfect a line identification database (LIDB) system, which would permit BPP. United States v. Western Electric Co., Inc., 698 F. Supp. 348, 367 (D.D.C. 1988).

[3] "Public phones" refers here to payphones and other aggregator phones, including hotel phones. Under the Communications Act, as amended, an aggregator is "any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services." 47 U.S.C. §226(a)(2).

[4] See, 47 C.F.R. §64.704 (1992), adopted pursuant to Pub. L. No. 101-435, 104 Stat. 986 (1990) codified at 47 U.S.C §226. The Commission has required unblocking of all payphones. Other aggregator phones must also be unblocked, except for equipment that was manufactured or imported before April 17, 1992 and cannot be modified to permit access code dialing for less than fifteen dollars per line without creating a significant danger of toll fraud. Commission rules do not require these phones to be unblocked until April 17, 1997. See 47 C.F.R. §64.704(c)(5).

[5] See, e.g., Policies and Rules Concerning Operator Service Providers, Report and Order, CC Docket No. 90-313, 6 FCC Rcd 2744 (1991). In the Final Report of the FCC Pursuant to the Telephone Operator Services Improvement Act of 1990, Nov. 13, 1992 (TOCSIA Report), we found that over ninety percent of telephones complied with our TOCSIA consumer protection requirements. We concluded that these requirements were effective in providing consumers the opportunity to reach their carrier of choice through access codes and thereby avoid the high rates charged by some OSPs. We recognized, however, that some calls are still routed to carriers that charge high rates. See para. 11, infra. We also found that these rates are in many cases driven by higher costs -- and, in particular, the higher commissions these carriers must pay to aggregators under a presubscription system of equal access. As discussed below, BPP would remedy these remaining problems. It would guarantee that all callers would always reach the preferred carrier, while simplifying dialing requirements on operator service calls. In addition, it would most likely eliminate the commissions that increase OSP cost structures (although there would be some offsetting increase in payphone compensation) and redirect operator services

observed in the Notice that other problems remain. In particular, we noted that many callers find dialing requirements for operator service calls to be burdensome and confusing.[6] We also observed that a presubscription system inherently favors the OSP with the most traffic, and that, to a significant degree, competition under presubscription benefits premises owners and payphone providers more than end users. It was largely because of these disadvantages of presubscription that the Notice tentatively concluded that, in concept, BPP was in the public interest.[7]

5. Under BPP, 0+ calls would be carried automatically by the OSP predesignated by the billed party. To identify the billed party's OSP, local exchange carriers (LECs) would initially route such calls to a LEC operator service switch (OSS).[8] From there the handling of the call would vary, depending on the nature of the call and the billing vehicle. For interLATA collect calls, as well as interLATA calls billed to third numbers or line-number based calling cards,[9] LECs would launch a query from the OSS to a LIDB via common channel signaling (SS7) to

---

competition towards consumers and away from aggregators. Thus, while TOCSIA and our implementing rules provided significant benefits to the public, given existing network technologies, BPP would yield additional benefits.

[6] Notice, 7 FCC Rcd at 3030.

[7] In the Notice, the Commission also sought expedited comment on a proposal to address the competitive inequities created by the use in a presubsciption system of proprietary calling cards, that is, calling cards that can be validated only by the card issuer. Specifically, the Commission sought comment on whether, pending implementation of BPP, it should require IXCs to share with other IXCs, billing and validation data for any calling card usable with 0+ access. In Billed Party Preference for 0+ InterLATA Calls, Report and Order and Request for Supplemental Comment, CC Docket No. 92-77, Phase I, 7 FCC Rcd 7714 (1992), recon. pets. pending, the Commission concluded that the costs of this proposal outweighed the benefits. However, the Commission also stated that if it did not adopt BPP, it might reconsider whether further action would be needed to address any remaining problems in the operator services market.

[8] Notice, at 3027-29; See Joint MCI, GTE, Pacific, SW Bell ex parte filing, Dec. 23, 1993 presenting a detailed BPP service description that is agreeable to all four parties.

[9] Under current LEC plans, LIDB queries would be ten-digit in nature. Thus, there could be only one line number calling card for each line. If BPP plans were modified to permit 14-digit screening, LECs would be able to differentiate among line number cards based on the personal identification number (PIN), thereby allowing multiple line number cards for each line. LECs maintain, however, that 14-digit screening would be substantially more expensive to administer. See infra Section IV.D.

identify the OSP predesignated by the party to be billed.[10] For calls billed to a calling card in the CIID or 891 format[11] or to a commercial credit card, LECs would identify the OSP or the database to be queried for routing instructions at the OSS (without a LIDB query) based on the first six digits of the calling card number.

6. Once the preferred OSP was identified, the call would be sent to it. In addition, any billing data collected by the LEC -- such as calling card number -- would be sent to the OSP via OSS7,[12] if the OSP could receive OSS7 data. (If the OSP could not receive OSS7 data it would need to request billing information from the caller again.) The OSP operator system would be responsible for validating OSP CIID and 891 cards and obtaining acceptance on collect and third party billed calls. Line number cards would continue to be validated in LIDB.

7. Most operator service calls would be handled on an automated basis through "Automated Alternate Billing Service" (AABS) systems, which many LECs have already deployed and which would be expanded to handle the increased load of BPP calls.[13] Proponents of BPP have urged its application to 0- as well as 0+, calling card, collect, and third party

---

[10] LECs would load into LIDB a primary and secondary OSP choice for each telephone line. Secondary choices would be used when the primary carrier, e.g., a regional carrier, was unable to handle the call. The LIDB response to the OSS would include the secondary OSP choice as well as the primary, so that the former could be used if the latter carrier could not receive the call.

[11] An 891 card, consistent with the International Telegraph and Telephone Consultative Committee (CCITT) standards, contains up to nineteen digits. Its first three digits indicate that the card is from the North American Numbering Plan area. The next three digits identify the card issuer. A "Card Issuer Identifier" (CIID) card is a fourteen-digit non-line number based card, the first six digits of which identify the card issuer.

[12] OSS7 is an operator services version of SS7 software containing the additional fields needed to provide operator services (e.g., calling card number). It would be used to transmit information from the LEC end office to the LEC OSS, and from the LEC OSS to the OSP receiving the call.

[13] LECs, as well as OSPs, have been deploying AABS systems in place of live operators. These systems provide instructions to and solicit information from callers via automated prompts. For example, a tone signifies that the caller should enter a calling card number, and a second tone or a recorded voice instructs the caller to identify collect or third party calls, possibly by keying in particular digits.

billed calls.[14] BPP would not alter the current routing of access code, 1+, 00-, or calls billed to foreign line numbers.[15]

III. COSTS AND BENEFITS OF BILLED PARTY PREFERENCE

8. Based on the record and other publicly available information available to us, we believe that the benefits of BPP are significant and outweigh its costs. Our evaluation of the costs and benefits of BPP is based on data submitted by the parties and the best publicly available data from other sources. When possible, we have sought to quantify the benefits in dollars to help judge whether consumers would value the benefits above the costs. For purposes of this analysis, we have assumed that BPP, if mandated, would be implemented in June 1997.[16] We seek comments on our analyses of both costs and benefits.

A. Benefits

9. BPP would provide three principal benefits. First, it would facilitate access to the telephone network by simplifying calling card, collect, and third party billed calling. Callers would no longer need to use access codes, they would no longer find their OSP cards rejected at certain payphones,[17] and their calls would automatically be carried by the OSP preferred by the billed party, rather than that chosen by the premises owner. Second, BPP would lead OSPs to refocus their competitive energies on serving end users rather than paying commissions for the 0+ traffic from public phones. Third, it would enable at least some of AT&T's competitors to compete more effectively for customers who prefer not to use access codes. As explained more fully below, the first two benefits would appear to generate roughly $620 million annually in gross quantifiable savings. A more competitive market structure should also lead to lower

---

[14] A 0- call occurs when the caller dials "0" with no additional digits. 0- calls are currently routed to the LEC operator in most states. In those instances, if the caller wishes to place an interLATA call, the LEC operator will instruct the caller to hang up and redial using either 0+ or a carrier access code. Alternatively, the LEC operator might ask the caller to choose a long-distance carrier and transmit the call to that carrier.

[15] A 00- call occurs when a caller enters the digit "0" twice with no additional digits. 00- calls are routed to the OSP presubscribed to the originating line.

[16] For a fuller discussion of the timing of implementation, see, section IV.G., infra.

[17] 0+ calls made with a proprietary OSP calling card from a phone presubscribed to another OSP are currently rejected by the presubscribed OSP.

prices and better services, though we have not quantified this or a number of other benefits we discuss below.[18]

1. BPP would eliminate the need for access codes and guarantee routing by the billed party's preferred carrier.

10. Avoiding the inconvenience of using access codes. According to the TOCSIA Report, an estimated one-third of operator service calls were made via access codes in 1991.[19] BPP would benefit these access code users by saving them the trouble of entering the extra digits of an access code before each call. It would also eliminate the possible time and trouble that some face in remembering their carrier's access code or having to retrieve their calling card instructions each time they make a calling card call. While we suggested in the Notice that callers may become more comfortable with access codes over time, and that the value of this benefit may thus diminish over time, we believe that the likely replacement of 10XXX access codes with 101XXXX codes in 1995 may further confuse callers and add to the burdens of access code dialing.[20] Callers who use 0+ on phones presubscribed to their preferred carrier would also avoid having to determine whether they needed to use an access code.[21] We seek

---

[18] A study commissioned by CompTel concludes that BPP would alter the routing of only about nineteen percent of operator service calls. CompTel ex parte filing, Nov. 22, 1993 (CompTel study). Even assuming that this number is approximately correct, BPP would save consumers hundreds of millions of dollars on those calls. See, para. 11, infra. Moreover, the assumption in that study -- that BPP provides benefits only to the extent it alters the routing of operator service calls -- is, in our view, incorrect. Rather, we believe that all consumers would benefit from simplified dialing requirements that guaranteed them access to the billed party's carrier of choice. In addition, consumers would benefit from increased price competition for customer traffic in the operator services marketplace and from the elimination of commissions that inflate OSP cost structures and are presumably reflected in OSP rates.

[19] The industry-wide dial-around figures can be estimated for 1991 from data in the TOCSIA Report, at 30-31 and Attachment N, Table 4, at N-17 (TOCSIA Report Table 4).

[20] Pennsylvania PUC Comments at 5 n.3; Sprint Reply Comments at 6; See, Administration of the North American Numbering Plan, Notice of Proposed Rulemaking, CC Docket No. 92-237, FCC 94-79, paras. 48-50, (released Apr. 4, 1994).

[21] Several commenters agree that many consumers find access codes inconvenient. Ameritech Reply Comments at 16-17; Indiana & Pennsylvania Consumers Comments at 14; Mastercard/Visa Comments at 10-11; MCI Comments at 4-5; Michigan PSC Comments at 2; Midwest Regulators Comments at 7; Pacific Comments at 8 (many callers now believe that a LEC credit card ensures the use of their preferred OSP); Pennsylvania PUC Comments at 3-5. According to focus group research conducted by Pacific, "81% of card holders who need to dial access codes are interested in having 0+ access on their cards." Pacific also found that "dialing convenience is a most important card attribute for a majority of card holders." Pacific Comments

comment on the extent to which consumers find access codes confusing or convenient. We also seek comment on the extent to which consumer acceptance of access codes is likely to change over time.

11. Guaranteed automatic routing to the customer's preferred carrier. Callers who cannot or do not use access codes from public phones would gain the most significant benefits from BPP. These callers would no longer be frustrated by having their only calling card rejected at a particular telephone because the presubscribed OSP could not validate a proprietary card of a different OSP. In addition, many callers could save a significant amount in operator service charges. In today's presubscription environment, 0+ calls may be routed to carriers that charge rates that are considerably higher than the industry average. Indeed, according to the TOCSIA Report, AT&T, MCI, and Sprint charged, on average, $.34 per minute for an operator service call in 1991, while third-tier OSPs charged, on average, $.53 per minute, or $.19 per minute more.[22] Since under BPP, consumers would not likely presubscribe to an OSP that charged high rates, BPP would, we believe, force OSPs either to lower their rates or lose 0+ traffic.[23] Based on data in the TOCSIA Report, even assuming that BPP would not apply to any intraLATA calls, we estimate that consumers could save approximately $280 million per year by avoiding

---

at 8. But see BellSouth Comments at 9 (claiming that a July 1991 Bellcore survey found that callers do not view access codes as a significant burden, but failing to provide further detail about that survey).

[22] TOCSIA Report Table 4. The average rates we use here reflect actual OSP revenues for six sample third-tier OSPs who earn approximately 40% of third-tier OSP revenues. TOCSIA Report at Attachment N, N-12.

[23] As with 1+ service, some OSPs might well offer rates below the largest carriers, but no attempt has been made to quantify the additional benefits to consumers from OSP prices below, rather than simply at, current competitive levels.

the highest-priced OSPs.[24] We seek comment on this analysis and on whether data in the TOCSIA Report reflects the current rate differential between AT&T/MCI/Sprint and otherOSPs.

2. OSPs would refocus their competitive efforts on end users rather than on commission payments to premises owners.

12. By transferring the ability to choose the OSP for a 0+ interLATA call from the premises owner or payphone provider to the end user, BPP would benefit consumers in two ways. First, BPP would force OSPs to redirect their competitive efforts away from aggregators and toward end users. This shift in focus would likely result in lower prices and better service. Second, BPP would almost certainly eliminate 0+ commissions and thus significantly reduce OSP costs, thereby offsetting a substantial portion of the costs of BPP itself. The TOCSIA report indicates that OSPs paid approximately $500 million in commissions to premises owners and payphone providers on 0+ interLATA and intraLATA toll calls in 1991. We estimate that by 1997, the annual savings on interLATA 0+ commissions would be approximately $340 million.[25]

---

[24] TOCSIA Report Table 4 indicates that third-tier OSPs earned $1.2 billion in revenues in 1991. Since, as shown in note 21, supra, the $.53 per minute these OSPs charged was, on average, $.19 per minute more than the average rate for AT&T, MCI, and Sprint, approximately 36% ($.19/$.53) of this $1.2 billion ($430 million) are revenues attributable to amounts third-tier OSPs charged in excess of the composite AT&T, MCI, and Sprint rate.

To estimate this revenue differential for 1997, we make two adjustments. First, we adjust for traffic growth between 1991 and 1997. We assume a 4.3% growth rate, based on FCC data showing a 4.3% historical growth trend rate for toll traffic revenues from 1984-1992. Long Distance Market Shares at 12 (FCC Common Carrier Bureau, Industry Analysis Div., Sept. 1993). Second, to be conservative, we assume that the market share of third-tier OSPs will decline as callers increasingly dial around those third-tier OSPs with the highest rates. We assume, for purposes of this analysis, that between 1991 and 1997, the combined market share of third-tier OSPs will drop by about one third – from 12.7% of the minutes for away-from-home calls (see TOCSIA Report, Graph 2, at N-15) to 8.5% of away-from-home minutes. Applying these adjustments, we project that, in 1997, third-tier OSPs will receive $370 million in charges above the composite AT&T, MCI, and Sprint rate. We then assume that 23.8% of this differential would be attributable to intraLATA calling (TOCSIA Report Table 4 shows that 47.5% of third-tier OSP revenues are intrastate and we assume half of that is intraLATA) and adjust accordingly.

[25] We derive this figure as follows: TOCSIA Table 4 estimates 1991 operator service revenues from aggregator phones at $6.1 billion, approximately $1.2 billion of which was third-tier OSP revenue. To estimate 1997 0+ revenues, we make the following adjustments. We first adjust 1991 revenues to account for overall growth in operator service revenues between 1991 and 1997. We assume a 4.3% annual growth rate, see note 24, supra, and thereby derive a revenue figure of $7.9 billion in 1997, $1.5 billion of which would be third-tier OSP revenues.

13. We understand that consumers may not realize all of these savings. In particular, we understand that some aggregators might seek to recover lost commission payments through direct surcharges on end users for telephone usage. On the other hand, it appears that the hotel/motel industry has found such surcharges to be harmful to customer goodwill, and this could deter them from using surcharges to replace lost commissions.[26] We also recognize that premises owners could seek to recover lost commissions through higher prices for other goods and services. For example, hotels could raise their room rates, or restaurants with payphones could raise menu prices. Yet if the prices of other goods and services were already subject to competitive pressures or set at a profit-maximizing level, this option would be limited. Even if premises owners were able to recover their lost commissions from higher prices of other goods and services, BPP would still benefit consumers by generating more efficient pricing. In

---

We next adjust these numbers to account for our assumed shift in traffic from higher-priced OSPs to lower-priced OSPs between 1991 and 1997. If this shift occurs, actual 1997 operator service revenues will approximate $7.7 billion. (We derive this figure by assuming that one third of anticipated third-tier OSP revenues in 1997 would be priced at the AT&T/ MCI/Sprint average rate, rather than higher third-tier rates.) We then assume that 18.1% of these revenues are from intraLATA calls (TOCSIA Report Table 4 shows that 36.3% of OSP revenues are intrastate and we assume half of that is intraLATA). In addition, to be conservative, we assume that the dial-around rate will increase to 50% by 1997, leaving $3.2 billion in interLATA 0+ revenues. We next calculate from TOCSIA Table 4 that 1991 0+ commission payments averaged about 12% ($500 million/$4.1 billion) of 0+ revenues from aggregator phones. We apply this rate to anticipated 1997 0+ interLATA revenues to arrive at $380 million in estimated commission payments.

We then make two additional adjustments. First, we assume for purposes of this analysis that compensation paid by OSPs to competitive payphone providers (CPPs) will double from $6 per phone per month to an average of $12 per phone per month. See note 53, infra. This would reduce 0+ commission savings by about $22 million per year to about $360 million. Second, we subtract commissions that would otherwise be paid on the $280 million in third-tier OSP revenues that we estimated would disappear due to BPP, see note 24, supra. This would reduce 0+ commission savings by an additional $17 million to about $340 million. For a more detailed explanation of these calculations, see Appendix B.

[26] According to a July 25, 1993 story in The Washington Post, Hilton Hotels is the latest and largest of the major lodging chains to eliminate direct surcharges for guests who use a calling card, and several other hotel chains say they are considering a similar move. Hilton's senior VP for marketing cited calling card access fees as "the biggest source of customer complaints at full-service hotels." Hilton estimates that the policy will cost the chain several million dollars in the short term, but it hopes for increased guest satisfaction and loyalty. Stouffers and Embassy Suites do not charge fees today, and Sheraton and Marriott are both studying the policy. James Yenckel, "Fearless Traveler: Phoning Home: Hotel Fees," The Washington Post, July 25, 1993 at B6.

particular, BPP would prevent premises owners from using artificially high operator service rates to cross-subsidize artificially low prices for other goods and services.[27]

3. Competitors of AT&T would be able to offer end users the same 0+ access as AT&T.

14. Due to AT&T's large customer base and its use of a proprietary calling card, it has an advantage in competing for presubscription contracts with payphone providers and other aggregators. Specifically, it can pay a lower commission rate, but still offer higher overall commission payments.[28] This presubscription advantage confers two corresponding benefits. First it increases AT&T's share of operator services traffic since the presubscribed OSP receives all 0+ calls from the phone. Second, it enables AT&T to hold itself out as the only long distance carrier that can offer simple 0+ dialing as a practical option. If any of AT&T's competitors were to encourage customers to attempt 0+ calls using their IXC cards, those customers would probably become annoyed at the high rejection rate for those calls. AT&T's competitors have claimed that their inability to offer 0+ calling with their own calling cards has

---

[27] The CompTel study concludes, without substantiation, that there would be no 0+ commission savings under BPP because of increased payphone compensation and surcharges assessed by aggregators. The study also suggests that consumers would not benefit by depriving public institutions of commissions, since those institutions use those commissions to provide public services. This study, however, assumes that the Commission would increase payphone compensation payments by $42-60 million per year under BPP, while, as explained in Appendix B, an increase of about $22 million would be consistent with the rationale of the Payphone Compensation Order. See note 53, infra. The CompTel study also assumes that aggregators will not be constrained by market pressures in recovering their lost commissions. Moreover, for the reasons stated above, we reject the notion that consumers would not benefit from a reduction in commission payments to aggregators, even if those payments are otherwise recovered or had been made to public institutions.

[28] As indicated in the Notice, AT&T's introduction of a proprietary calling card secures this advantage. All OSPs can pay commissions on 0+ calls made with a LEC calling card. According to Pacific, 45% of all calling card calls are made with a LEC card. Pacific ex parte filing, Jun. 25, 1993. All OSPs can also pay a commission on collect and other non-calling card calls. Only AT&T, however, pays a commission on the 0+ calls made with an AT&T proprietary calling card. According to Pacific, 35% of all calling card calls are made with an AT&T proprietary card. Id. While other OSPs have issued their own proprietary cards, these cards are used far less often (20% of the time in the aggregate, according to Pacific, id.). Moreover, these cards generally instruct callers to use access codes because of the small likelihood that dialing 0+ will be successful with them. Therefore, AT&T is able to win presubscription agreements against other competitively priced OSPs even when offering the payphone premises owner a lower commission rate.

had an adverse impact on their interexchange business generally by strengthening the perception that AT&T offers superior service.[29]

15. BPP would eliminate these AT&T advantages. It would give all carriers the same opportunity to compete for 0+ traffic. It would also give MCI, Sprint, and others the ability to offer customers the same 0+ calling option that AT&T offers and that many customers appear to prefer.[30]

4. Other benefits

16. BPP would also produce other cost savings. For example, it would reduce regulatory costs. The FCC and state commissions have received many complaints about OSP rates.[31] BPP would significantly reduce the incidence of such complaints and any need to regulate OSP rates more actively. In addition, by eliminating AT&T presubscription advantages, BPP might enable the Commission to streamline regulation of AT&T's operator services. BPP could also reduce the need to police compliance with TOCSIA by eliminating the incentives for premises owners to block access code calls and by diminishing the importance of the TOCSIA call branding and notice requirements.

17. BPP would also likely reduce OSPs' costs of collections and uncollectables since OSPs would generally be billing only their presubscribed customers and not one-time callers, while consumers would no longer receive bills for 0+ calls from unknown carriers with unfamiliar rates (which they might not be inclined to pay).[32] Furthermore, the new facilities installed for BPP, including OSS7 in the end office, would enhance the communications infrastructure by improving the signaling capabilities of the network, facilitating the introduction

---

[29] Competition in the Interstate Interexchange Marketplace, Report and Order, CC Docket No. 90-132, 6 FCC Rcd 5880, 5884 (1991).

[30] Of course, there is no guarantee that OSPs would promote 0+ calling in a BPP environment. If the cost of BPP were recovered only from 0+ calls some carriers might promote access code calling as a cheaper alternative to 0+ calling. Others might focus on the 1-800 debit card market. Nevertheless, many customers appear to have a strong preference for 0+ calls, as discussed in section III.A.1., supra.

[31] We continue to receive large numbers of complaints despite our TOCSIA rules. Indeed, whereas from April to September 1990, just prior to the enactment of TOCSIA, we received 851 operator service complaints, over that same six month period in 1992 and 1993, we received 1,377 and 1,373 operator service complaints, respectively. FCC, Common Carrier Bureau, "Consumer Complaints and Inquiries About Common Carrier Issues." 1990, 1992, 1993. The Florida and Texas Commissions also report problems under current rules. Florida PSC Comments at 3-4; PUC of Texas, ex parte, filing Feb. 23, 1994.

[32] Ameritech Comments at 20.

of new services, and increasing efficiency in the provision of existing services. Although major LECs other than Ameritech may lack current plans for developing new services that depend on OSS7 in the end office, this capability could aid in the provision of other forthcoming services, such as Customer Local Area Signaling Services (CLASS) services on operator service calls.[33]

18. We invite comment on our analysis of the benefits of BPP and the assumptions underlying this analysis. We urge parties disputing our analysis or data to submit empirical data to support their claims. Particularly relevant would be data on consumer acceptance of access code dialing and on the value to consumers of being able to reach their preferred carrier without using access codes. Also relevant would be data on any impact of wireless or other new technologies. We especially encourage consumer groups to comment on our assessment of the benefits of BPP.

19. As discussed above, in estimating the benefits of BPP, we have assumed that, if mandated, BPP would apply only to interLATA traffic and that 0+ intraLATA traffic would continue to be routed to LECs. If states extended BPP to intraLATA traffic as well, the benefits of BPP could be significantly augmented. A number of state public utility commissions support BPP and urge us to adopt it.[34] In the event we mandate BPP we would encourage all states to extend its application to all intraLATA traffic to maximize the benefits of BPP.

B. Estimated Costs of BPP

1. Cost of implementing and administering BPP

20. To implement and operate BPP, LECs, and to a lesser extent OSPs, would be required to make substantial network modifications. LECs have submitted data on the costs of these modifications, but these data are not as reliable as we would like, primarily for three reasons. First, some equipment vendors have been unwilling to offer prices without a more detailed explication of LEC requirements.[35] Second, some of the software needed for BPP has not yet been developed. Third, LECs do not know the extent to which they will be able to

---

[33]Examples of CLASS services include Caller ID, which permits the called party to display the caller's phone number, and Selective Call Forwarding, which permits the called party to forward only calls received from a selected set of phone numbers.

[34]See, e.g., Florida PSC Comments at 1; Michigan PSC Comments at 2; Midwest Regulators Comments at 7,8; Missouri PSC Comments at 1; New York DPS Reply Comments at 1; Texas PUC Comments at 1.

[35] See, e.g., Ameritech Comments at 18; Bell Atlantic Comments at Attachment A; Pacific Comments at 19.

obtain discounts that they customarily receive from vendors.[36] Based on the available data, LECs estimate that their costs would approximate $1.1 billion in nonrecurring charges and $60 million in annual recurring expenses.[37] These estimates translate into an amortized pre-separations annual cost of approximately $380 million. As discussed below, we estimate that total OSP costs would be approximately $35 million per year, yielding a total estimate for BPP modifications of about $420 million per year.

21. LEC costs. LEC costs would fall into three broad categories. The single largest category would include costs for end office software needed for BPP. This software would enable LECs to perform "route splitting" (routing access code and 00- calls directly to OSPs, while routing 0+ and 0- calls to the LEC OSS). It would also enable them to transmit to the OSS the identity of the OSP presubscribed to the originating line. LECs would use this information for routing calls billed to foreign numbers (which would not be subject to BPP) and in the event the primary and secondary carrier were unavailable. LECs claim they would have to deploy OSS7 in their end offices to perform these functionalities.[38] LEC cost estimates for this software total about $480 million.[39]

22. The record is unclear on the extent to which OSS7 costs should be recovered from BPP. Ameritech argues that OSS7 would be used for a host of new services and that it would only seek to recover the costs of accelerating OSS7 to accommodate BPP. Pacific suggests that some OSS7 costs could be allocated to other services. MCI goes further and argues that OSS7 is a general network upgrade, none of the costs of which should be loaded into a BPP rate element. On the other hand, no other LECs indicate that they have any other expected use for

---

[36] Some BOCs have noted that they are generally able to negotiate significant discounts from their vendors for new hardware and software, but that these discounts were not included in their cost estimates. See, e.g., BellSouth ex parte filing, June 23, 1993; SW Bell ex parte filing, June 3, 1993.

[37] In citing these estimates we do not imply that these costs are reasonable or properly attributable to BPP. These matters would be addressed in the tariff review process.

[38] While it appears that certain types of switches can perform these functions without OSS7, LECs maintain that in most switches, little savings could be achieved by using multi-frequency (MF) software in lieu of OSS7. LECs also argue that it would make no sense to spend large amounts of money on new MF software, given the superior capabilities of OSS7. See Pacific ex parte filing, July 6, 1993; Ameritech ex parte filing, July 8, 1993.

[39] See, e.g., SW Bell Reply Comments at 6: item 5 ($103.5 million); USTA ex parte filing, July 20, 1993 ($86.7 million); US West ex parte filing, Aug. 16, 1993 (75.5 million); BellSouth Comments at Exhibit 1 ($72.3 million); NYNEX ex parte filing, Apr. 28, 1994 (48.5 million).

OSS7. Likewise, the Missouri PSC asserts that if OSS7 is needed for BPP, OSS7 costs should be recovered from BPP.[40]

23. We seek comment on the extent to which OSS7 costs would be treated as BPP costs if we mandate BPP and, in particular, on the need for and possible other uses of OSS7. For purposes of our current cost/benefit analysis, however, we assume that the entire estimated cost of about $480 million for providing OSS in the end office would be attributable to BPP.

24. A second category of LEC BPP costs would include costs of increasing LEC operator service capabilities. Under BPP, 0+ calls currently routed to the presubscribed OSP would instead be routed to LEC operator positions for at least preliminary processing to determine the billed party's preferred carrier. In addition, the BOCs expect that most calls now made using access codes would become 0+ calls and therefore would have to be processed at LEC operator positions. Providing the live and automated operator services for this additional traffic would require LECs to add more operator positions and consoles, provide additional training, and employ more operators. LECs estimate this would cost about $120 million per year in recurring costs and about $180 million in nonrecurring costs.[41]

25. Most of these costs, however, would be due to a shifting of functionalities from the OSP networks to the LEC networks.[42] Therefore, most of these costs would be offset by cost savings to OSPs. For the purposes of this analysis, we estimate that at least 75% of the recurring costs, i.e., operator salaries, and at least half of the AABS and operator related non-recurring costs would be offset by cost reductions to OSPs. In calculating the net costs of BPP, therefore, we exclude these portions of the LEC cost estimates.

26. The third category of LEC costs comprise all of the remaining additional expenses associated with LEC implementation of BPP. These include $280 million for software modifications to operator switches and $130 million for trunk terminations and rearrangements, for a total of approximately $550 million in nonrecurring costs. In addition, LECs estimate additional recurring costs of about $30 million annually for BPP carrier updates, maintenance, and other similar services.

---

[40] Ameritech ex parte filing, June 10, 1993; MCI ex parte filing, June 8, 1993; Missouri PSC Comments at 3; Pacific ex parte filing, July 6, 1993.

[41] See Appendix C.

[42] In particular, LECs would determine the nature of the call (calling card, collect, or third party billed) and the line or calling card to be billed, functions currently performed by the OSP. OSPs would only need to handle call acceptance for collect and third party calls and validation for OSP calling card calls. Because LECs would be able to signal the information they collect to OSPs with SS7 capabilities, BPP would reduce operator related costs for most OSPs.

27. Adding these three categories together yields an estimated net cost for LEC modifications of about $1.1 billion in nonrecurring costs and approximately $60 million per year in recurring costs. Amortizing the non-recurring costs yields an annual cost of approximately $320 million/yr,[43] and thus the total LEC cost of BPP modifications, net of the offset for OSP operator cost savings, would be approximately $380 million/yr. Some LECs would also seek to apply overhead loading factors to these costs.[44]

28. OSP costs. OSPs accepting 0+ calls would also have to modify their networks. AT&T estimates that BPP would require it to spend at least $68 million in non-recurring costs,[45] MCI $19.5 million,[46] and Sprint about $6.5 million for network modifications.[47] No other

---

[43] The record indicates that LECs would seek to amortize their non-recurring capital investments and expenses by requesting a recurring charge of approximately 29% of their non-recurring expense. For example, Ameritech estimates its total nonrecurring expenses would be $48.8 million and translates that into an annualized expense of $13.9 million (28.5%). Ameritech ex parte filing, July 8, 1993. Similarly see BellSouth: non-recurring costs of $24.936 in capital and $120.681 in other expenses would translate to 6.982 and 34.997 million in annual costs, respectively, (.28 and .29). BellSouth Comments at Exh. 1 & 2. See also, GTE (estimated annual charge factor of 30%), GTE ex parte filing, Aug. 24, 1993; SNET: capital costs of $6, $13, and $1 million would translate into annual expenses of $1.8, $3.9, and $.3 million (all .30). SNET ex parte filing, Jun. 18, 1993. This annual charge factor would permit LECs to recover expenses over five years and principal, interest, and other related costs of capital investments over their life expectancy.

[44] LECs have indicated that they would request overhead loadings in the neighborhood of 25%. See, e.g., Ameritech ex parte filing, Dec. 2, 1993 (30%); GTE ex parte filing, Aug. 24, 1993 (6% already included in estimates); Pacific ex parte filing, Sept. 20, 1993 (10%); and SW Bell ex parte filing, Jan. 5, 1994 (22%).

[45] AT&T estimates that it would be required to spend $30 million in development costs to modify its operator services positions system (OSPS) switching equipment to handle SS7 protocol data for BPP; $10 million to develop call processing software for that same system so that it could operate with the call detail provided through the SS7 protocol; and $14 million for trunk reconfigurations, particularly rearrangements. In addition, AT&T estimates $8 million for trunk upgrades, and $6 million for additions to its signaling links. It also indicates that it would require an additional $20 million if it is required to create an MF interface in addition to an SS7 interface to handle BPP traffic from independent LECs that are unable to arrange to employ OSS7 and AABS systems to handle their traffic. AT&T Comments at 12-15; Reply Comments at 9-10.

[46] MCI estimates $6 million for software development and $13.5 million for hardware deployment and rearrangements. MCI ex parte filing, July 16, 1993. MCI does not further elaborate on the nature of these costs.

OSP/IXC offers any cost estimate, but extrapolating from the former figures, we assume that total OSP costs would not exceed $120 million or about $35 million per year (exclusive of LEC charges to recover the BPP costs described above).[48] We seek comments on this estimate and encourage OSPs to describe with specificity their BPP-related costs.

2. Effect on Quality of 0+ service.

29. Opponents of BPP argue that it would adversely affect service quality. They argue that callers would have to provide billing information, such as their calling card number, twice -- first to the LEC, so that the LEC could use it to identify the preferred carrier, and then to the OSP so that it could bill the call.[49]

30. These arguments appear to be generally overstated. While BPP would require a 0+ call to go through two operator systems, LECs would be able to transmit to OSPs the information they receive from a caller, thereby obviating the need for the caller to repeat that information to the OSP.[50]

31. Opponents of BPP also argue that BPP would increase access time for 0+ calls. These parties, however, do not substantiate their assertions and several parties dispute them.[51] We note also that BPP would decrease the time it takes to dial a call by eliminating the need for access codes, and that callers would receive instructions from the LEC during the call set-up period, which would reduce the incidence of call abandonment. Based on the record, therefore, we tentatively conclude that BPP should not materially degrade the quality of operator services.

---

[47] Sprint ex parte filing, August 12, 1993.

[48] If $120 million in OSP BPP costs are amortized over five years, they would represent an additional annual cost of about $35 million per year, using the same 5-year amortization factor as used above for LEC expenses. See note 43, supra.

[49] See, e.g., APCC Comments at 21-23; Arizona DOC Comments at 6-7; CompTel Reply Comments at 14-18, 21-22; Harvard Comments at 1; Elcotel Comments at 1; LinkUSA Comments at 17; US Long Distance Comments at 10-11.

[50] LDDS ex parte filing, Dec. 22, 1993. Larger LECs include the costs of this capability in their cost estimates. Cost estimates submitted by USTA on behalf of smaller independents LECs assume that those LECs will either deploy OSS7 at their own operator switch or send their BPP calls to another LEC that has that capability. USTA ex parte filing, Nov. 16, 1993.

[51] See, Ameritech Comments at 14-16; Bell Atlantic Comments at 8; GTE Reply Comments at 4; MCI Reply Comments at 17; Midwest Regulators Comments at 9-10; Missouri PSC Comments at 5; Pacific Comments at 6, 11, Reply Comments at 4-5; Pennsylvania PUC Comments at 5; SNET Comments at 5, 7; SW Bell Comments at 13-15; Sprint Comments at 22-26; USTA Comments at 7.

3. Effect on competition in certain market sectors

32. While we believe that BPP would generally increase competition, we recognize that some OSPs might find it harder to compete in a BPP environment. In particular, OSPs that were able to obtain presubscription contracts by offering high commissions, but that do not offer attractive rates and service to consumers, would have a difficult time competing in a BPP environment. Small OSPs with low rates or high quality service, however, should be able to attract customers under BPP. Like small IXCs in the 800 service marketplace, those OSPs can concentrate their initial marketing efforts on business customers and they can offer nationwide originating capability by using a secondary carrier. We also recognize that if large numbers of consumers choose their 1+ carriers as their OSP, those OSPs that did not offer 1+ service would be at a disadvantage. However, if consumers prefer to use their 1+ carrier for operator services, we do not believe that we should deny them that option.

33. CPPs maintain that BPP would have an adverse effect on payphone competition. They argue, first, that without 0+ commissions, they would be unable to compete with LEC payphones.[52] If we adopt BPP, however, we will revise our payphone compensation rules to increase the compensation of CPPs.[53] CPPs also argue that BPP would stifle the introduction of new and innovative payphone services[54] and diminish the availability of payphones.[55] BPP

---

[52] See, e.g., APCC Comments at 28-32; Arizona DOC Comments at 5; Cleartel, et al, Comments at 22-23; CompTel Reply Comments at 25-26; Intellicall Comments at 19; LinkUSA Comments at 10; Northwest Payphone Comments at 6.

[53] While we have assumed for purposes of analyzing the costs and benefits of BPP, that CPP compensation would double under BPP, see note 25, supra, we do not now prescribe changes to our current payphone compensation rules. In the Payphone Compensation proceeding, we have emphasized our preference for a per-call compensation rate in lieu of the per-phone rate that we adopted on an interim basis. See Policy and Rules Concerning Operator Service Access and Pay Telephone Compensation, Second Report and Order, CC Docket No. 91-35, 7 FCC Rcd 3251 (1992), aff'd in part and modified in part, 8 FCC Rcd 7151 (1993) (Payphone Compensation Order). We believe that the industry will be able to implement a per-call compensation system before the availability of BPP. Given this possibility and in light of the long implementation period for BPP, see para. 83, infra, we will defer consideration of revised payphone compensation rules to a later date.

[54] See, e.g., Airport ACI Comments at 8-10; Hotel & Motel Comments at 6-9; APCC Comments at 5-8; ATC/LDDS Reply Comments at 3; Central Payphone Reply Comments at 3-4; Cleartel, et at, Comments at 23-25; CompTel Comments at 18-19, 23-24; ComTel Comments at 3-4, 6-8; Dallas Airport Comments at 2; Orlando Aviation Comments at 4, 13; NY Payphone Comments at 13; Intellicall Comments at 3, 6-9 & exhibit 2; MFS Reply Comments at 1; Operator Service Comments at 3; PCA Comments at 4; Sharenet Comments at 3; US Long Distance Comments at 15-16

would not, however, preclude CPPs from o... ring new technologies, such as voice messaging services,[56] although it would require that CPI· ·nstruct callers to bypass BPP – e.g., by pressing the # key – in order to use such services. Moreover, we do not find convincing evidence that the loss of premises owners' commissions under BPP would adversely affect the availability of public payphone service.[57]

34. AT&T also argues that BPP would force OSPs to subcontract all operator functions to the LECs so that callers would not have to interface with two operator systems.[58] It argues that BPP would thereby result in LEC monopolization of operator services. This argument, however, is based on the faulty premise that callers would object to interfacing with two operator systems. In fact, in most cases, callers would not even know that they were doing so, since most calls would be handled on an automated basis and information provided to the LEC would be passed on to the OSP.

35. MFS asserts that BPP would create a LEC bottleneck through which all 0+ interLATA calls would have to be routed, thereby impeding competitive access providers (CAPs) from competing for this traffic.[59] The record concerning the impact of BPP upon competition in the local services market is particularly thin. For this reason we seek comment on the effect BPP might have on the development of competition in the local exchange marketplace.

C. Weighing the Costs and Benefits

36. In summary, BPP would simplify operator service calling by eliminating access codes and blocked calls, thereby facilitating customer access to the telephone network. It would also

---

[55] See, e.g., ACTI Comments at 1; APCC ex parte filing, July 19, 1993; California Payphone Comments at 2-3; Dallas Airport Comments at 2; Elcotel Comments at 3; Orlando Aviation Comments at 4-5, 10-12; Illinois CMS Comments at 3; NY Payphone Comments at 3-4; Intellicall Comments at 19; Midwest Payphone Comments at 2-3; Convenience Stores Comments at 13-14; Northwest Payphone Comments at 6-7; NYC Comments at 10-11; NYNEX Comments at 15-16; Opticom Comments at 14-15, Reply Comments at 14-16; Operator Service Comments at 4; Phonetel Comments at 21-22; RCI Long Distance Comments at 7; US Long Distance Comments at 16-17.

[56] See, e.g., MCI Reply Comments at 15-16; Sprint Reply Comments at 10-11.

[57] According to US West, the significant increase in commissions available to payphone providers and premises owners in recent years has not had a meaningful effect on the number of payphones in service. US West ex parte filing, Aug. 16, 1993.

[58] AT&T ex parte filing, July 15, 1993.

[59] MFS Reply Comments at 3-4; Assoc. for Local Telecommunications Services (ALTS) ex parte filing, Jan 10, 1994.

save consumers approximately $620 million per year on interLATA 0+ calls by eliminating the highest OSP rates and commissions that inflate OSP cost structures.[60] Even if some revenues from lost commissions are recovered by premises owners through charges for other non-telecommunications services, BPP would benefit the public by generating lower rates and more efficient pricing of operator services. In addition, it would refocus operator service competition on consumers, thereby lessening the need for the Commission to police OSP rates and practices. Finally, it would eliminate certain competitive advantages that AT&T now enjoys in the operator services market. On the other hand, LECs estimate that BPP would likely cost about $420 million per year. In addition, if LECs or OSPs failed to deploy OSS7 as necessary, it could degrade service quality. It could also cause some dislocation in the OSP or payphone marketplaces.

37. Weighing all these factors, it appears from the available information that the significant benefits of BPP outweigh its costs. If implemented, BPP would facilitate network access and increase competition, which would stimulate network usage and thus economic growth. In addition, BPP could represent a valuable improvement to the communications infrastructure. We also believe that if the benefits of BPP are to be fully realized, BPP must be implemented on a nationwide basis. Absent nationwide availability, BPP could increase rather than decrease consumer confusion about operator service dialing rules. Nevertheless, we recognize that cost estimates for technologies that have not yet been fully developed are inherently inexact, as are predictions about future consumer behavior. Moreover, the record does not fully reflect the potential impact that BPP could have on competition in the local exchange. For these reasons, we believe it would be useful to offer parties the opportunity to evaluate and critique our cost/benefit analysis before we make a final decision on BPP. We therefore seek comment on our tentative conclusions and analysis.

38. We also invite parties opposing BPP to describe with specificity alternatives for achieving some or all of the benefits that BPP would provide. For example, we invite parties to suggest alternatives for making operator service calling less confusing and more user friendly. We also seek comment on alternative means for subjecting operator service prices to more effective competition. In addition, we invite comment on whether, in the event we do not adopt BPP, we should reconsider our decision in Phase I of this docket.[61]

IV. IMPLEMENTATION OF BPP

A. The Breadth of Coverage

[60] As discussed above, we recognize that this amount would be reduced somewhat if premises owners sought to replace lost commissions with direct surcharges or other price increases.

[61] See note 7 supra.

1. Background/Comments of the Parties

39. In the Notice, we tentatively concluded that, if mandated, BPP should apply to all 0+ interLATA calls. We observed that the principal benefit of BPP -- simplified "dialing" -- would only result if BPP applied uniformly to all locations and all types of phones. We sought comment on this tentative conclusion and on whether BPP should also apply to 0- calls. We also invited comment on whether BPP could apply to calls originating in non-equal access offices.

40. Almost all commenters, including those opposed to BPP, argue that if BPP is implemented, it should apply to 0- as well as 0+ interLATA traffic, including calls originating from residential phones and in non-equal access areas.[62] They assert that ubiquitous coverage is the best way to minimize consumer confusion and to reduce per call costs, since full coverage increases call volume, but does not significantly raise the cost of BPP. Nine state regulators and NARUC support the application of BPP to all interLATA calls, but the New York DPS opposes FCC imposition of BPP on intrastate interLATA calls.[63]

41. Two groups request special exemptions: those responsible for prison phone service and smaller rural independent LECs. Smaller rural independent LECs argue that they should not be required to implement BPP.[64] Elkhart asserts that BPP would be even more costly than

---

[62] AT&T ex parte filing, July 15, 1993; Ameritech Comments at 7-8; Bell Atlantic Comments at 3; BellSouth Comments at 17-18; Citizens Reply Comments at 2; Florida PSC Comments at 6; GTE Comments at 4-6; Midwest Regulators Comments at 11-13; MCI Comments at 6-7; Michigan PSC Comments at 5; Missouri PSC Comments at 4; NYNEX Comments at 21; SNET Comments at 8-9; SW Bell Comments at 17-18; Sprint Comments at 29; Texas PUC Comments at 7-8; USTA Comments at 7; US West Comments at 17-18. A few OSPs and aggregators assume that BPP could not apply in non-equal access offices; however, the BOCs, GTE, USTA, and others state that this assumption is incorrect. Indeed, US West and USTA assert that "little or no expense" would be required to implement BPP in non-equal access offices. Messagephone argues that BPP should be limited to calls originating from public phones, since BPP is primarily intended to address the problems associated with such calls. Messagephone Reply Comments at 14-15. No other party takes this view. Moreover, LECs assert that limiting BPP to public phone traffic would not significantly reduce overall BPP costs.

[63] Some parties explicitly ask that BPP be implemented for intraLATA calls. Allnet Comments at 4; AmEx Reply Comments at 15-17; AT&T ex parte filing, July 15, 1993 (if BPP is mandated); Phonetel Comments at 4. Furthermore, many of the commenters listed in note 62, supra, support the application of BPP to the widest body of calls, which might well include intraLATA calls. Four Midwest state regulators argue that the issue of whether to impose BPP on intrastate intraLATA calls is one for state regulators -- not the FCC -- to act on. Midwest Regulators Comments at 12-13.

[64] Alltel Reply Comments at 2; Elkhart Reply Comments at 5-7; NTCA Reply Comments at 4-5; OPASTCO Comments at 4; Opticom Reply Comments at 17.

equal access and that the Commission should allow independents similar flexibility in planning their participation in BPP. Opticom questions whether small LECs with limited finances would be able to afford BPP, while OPASTCO cautions that even where they can, lower call volumes could lead to substantially higher than average per call costs. Elkhart also expresses concern that imposing BPP on smaller LECs would make them more dependent on larger LECs.

42. Dozens of prisons and sheriff's offices and the OSPs and CPPs serving them, as well as the Florida PSC and Midwest Regulators, argue that BPP should not apply to calls from correctional institutions.[65] They assert that BPP would impede the ability of correctional facilities to prevent fraud, harassing phone calls, or other criminal or abusive use of prison phones. They note that the Commission has previously recognized the special fraud concerns relating to inmate traffic by exempting prison phones from the TOCSIA unblocking rules, and they argue that the Commission should likewise exempt them from BPP if it is adopted.[66]

43. OSPs and CPPs serving prisons argue that the most efficient way to combat fraud is for a single OSP to be given responsibility for all interLATA calls from a prison, as occurs now under presubscription. They argue that because the OSP serving the prison bears the risk of fraud on calls made from the prison, that OSP has the incentive to install the necessary equipment and take the necessary measures to prevent fraud.[67] They argue that it is far more efficient for a single OSP to assume these responsibilities than to route calls to multiple OSPs, as would be the case under BPP, and leave it to each of them to address fraud in their own systems. Prisons also maintain that by eliminating 0+ commissions, BPP would deny them the revenues they currently use to finance prison expenses, and that without 0+ commission revenues, they could be forced to limit inmate calling.

44. Groups representing the families and friends of inmates oppose an exemption for prison calls.[68] They argue that it would be unfair to deny them the benefits of BPP if those benefits are made available to all other consumers. In response, some OSPs and CPPs serving prisons suggest that the concerns of these groups might be addressed adequately if the

---

[65] See, e.g., Arizona DOC; CompTel Reply Comments at 28-29; Florida PSC at 6; Inmate Calling Service Comments; Maryland DOC Comments; Midwest Regulators at 11-13; S. Carolina Jailers Comments; S. Carolina Sheriff's Assoc. Comments; Utah DOC Comments; Wisconsin DOC Comments. We also received numerous ex parte filings from prison officials.

[66] Gateway Reply Comments at 5-6; Midwest Regulators Comments at 11-12; S. Carolina Jailers Comments at 2-3.

[67] This would include, for example, training operators to handle the tactics inmates might use to commit fraud.

[68] See, e.g., Citizens United for Rehabilitation of Errants (CURE) ex parte filing, May 6, 1993; Pennsylvania Prison Society ex parte filing, June 9, 1993.

Commission set rate ceilings for inmate calling services. They argue that this would be a more cost-effective solution than BPP.[69]

45. MCI disputes claims that fraud control would be inefficient in a BPP environment. It argues that calls originating from prisons account for only a small minority of fraud and that the widespread prevalence of fraud from other sources already forces all OSPs to maintain extensive fraud control systems.[70] MCI and Sprint argue that BPP would actually improve the detection of fraud because all collect calls to a number would be carried by the same carrier rather than the different carriers that now serve different prisons. They assert that BPP could further improve fraud detection on all collect and third number calls, including those from correctional institutions, if LECs incorporated certain fraud protection systems into LIDB. MCI and Sprint note that under BPP, all collect and third number calls billed to a particular line number would be routed to the LIDB containing that line number. Thus, they state, the LEC administering the LIDB would be uniquely situated to identify and prevent fraud calls to that number. They note, for example, that LIDB could be programmed to monitor the volume of collect or third party calls billed to each number and to indicate when such volumes were suspiciously high. If LIDB provided this function, scam phone subscribers and others would not be able to avoid detection by frequently changing OSPs.[71]

46. BOCs supporting BPP state that current LEC technologies, including "flex-ANI," are sufficient to prevent BPP from increasing the prevalence of fraud.[72] Bell Atlantic and Pacific also assert that collect calls from prisons represent approximately half of all collect calls,[73] and that diminishing the volume of BPP calls would raise the per-unit BPP costs for other customers.

2. Discussion

47. We now tentatively conclude that if we mandate BPP, it should generally apply to all interLATA 0+ and 0- calls. A primary goal of BPP is to enable consumers to reach their preferred carriers easily and with minimal confusion. We believe that uniform nationwide 0+ and 0- calling rules are most consistent with this goal. In addition, insofar as it is preferable

---

[69] Inmate Calling Service ex parte filing, Jan. 5, 1994.

[70] MCI ex parte filing, Nov. 24, 1993.

[71] Id.; Sprint ex parte filing, Dec. 17, 1993.

[72] Ameritech Reply Comments at 15. OSPs purchasing flex-ANI would receive an ANI II code of 29 accompanying all calls from prisons located in exchanges where flex-ANI was available.

[73] Bell Atlantic ex parte filing, Aug. 17, 1993 (57% of all intraLATA collect calls handled by Bell Atlantic originate from inmate facilities); Pacific ex parte filing, July 6, 1993 (inmate collect calls represent 40% of all collect calls handled through Pacific's network).

that calls be routed to the carriers chosen by the billed party (as opposed to the caller), applying BPP to all 0+ and 0- calls could further the public interest.

48. We recognize that there is less need for BPP on 0- calls and on calls from residential and business phones. 0- callers can rely on live operators to transfer their call to their preferred OSP or to instruct them on how to reach that OSP. Callers from residential and business phones are less likely to reach OSPs that charge rates that are higher than the norm. For these reasons, if limiting BPP to 0+ calls or to public phone traffic would significantly reduce the cost of BPP, that option might be attractive. The record indicates, however, that this would not be the case. Indeed, even many of the opponents of BPP support applying BPP to all 0+ and 0- calls if we mandate it.[74]

49. We also tentatively conclude that if we mandate BPP, it would have to be available in independent LEC territories, as well as those of the BOCs. Otherwise, different dialing rules for different locations would confuse callers, and undermine the benefits of simplified operator service calling. We do not believe that it would be unreasonably burdensome for independent LECs to participate in BPP. As is the case with another service we have recently mandated, 800 data base service, independent LECs could arrange to participate in BPP in several ways. Independent LECs that do not currently provide their own operator services could, for example, send their 0+ and 0- traffic to another LEC for screening. Alternatively, independent LECs could use their own OSS and another LEC's LIDB. Or they could share facilities with other small independent LECs.[75] Given these options, and based on data submitted by USTA, we tentatively conclude that independent LECs would be able to participate in BPP without incurring unreasonable costs.[76]

50. We seek further information and comment on the options available to independent LECs for participating in BPP and on the costs of such options. We also invite parties to suggest rules that should govern LEC participation in BPP. We tentatively conclude that all OSSs used for BPP should be equipped with OSS7 as necessary to provide OSPs with billing information received from callers so that callers do not have to repeat that information to the OSP. We seek comment on this and on any other rules that should govern in this area.

---

[74] We do not now address whether we could or should require BPP for intraLATA calling. We note, however, that many states support the implementation of BPP and we anticipate that states that have authorized intraLATA competition would seriously consider adopting BPP for such calls. As noted, we believe that a truly universal BPP system with uniform nationwide dialing requirements would be in the public interest.

[75] As with 800 data base service, we would provide independent LECs with as much flexibility as reasonably possible to ensure that they could plan their BPP participation in accordance with their resources and network needs.

[76] USTA ex parte filing, July 20, 1993.